

## **PROPOSED TEXT**

Department of Food & Agriculture

### **TITLE 3. CALIFORNIA CODE OF REGULATIONS**

SECTIONS 2850, 2851, 2852, 2853, 2854, 2855, 2856, and 2857

### **SUBCHAPTER 5. RICE IDENTITY PRESERVATION**

#### **ARTICLE 1. DEFINITIONS**

**Adopt Section 2850 to read:**

Section 2850. Terms and Definitions

For the purposes of this group:

- (a) “Planted area” means that portion of the field that may be planted to the rice variety specified in that section.
- (b) “Dryer” means a facility where rice is transported to lower its moisture content.
- (c) “Banking out” means the process of transferring rice from the harvester to a trailer.
- (d) “Broadcasting” means the action of spreading rice seeds on the surface of the field by hand or machine.
- (e) “Foundation seed” means seed stock produced from breeder seed by or under the direct control of an agricultural experiment station. Foundation seed is the source of certified seed, either directly or through registered seed organizations.
- (f) “Basic seed” means a class of seed produced under the responsibility of the breeder according to the generally accepted practices for the maintenance of the cultivars that is intended for the production of Certified Seed.

Authority: Section 55022, Food and Agricultural Code.

Reference: Section 55040, and 55047, Food and Agricultural Code

#### **ARTICLE 2. PRODUCTION AND HANDLING PROTOCOLS**

**Adopt Section 2851 to read:**

## Section 2851. Production and Handling of Conventionally Bred Specialty Rice

Except as provided in subsection (b), the protocol specified in this section shall apply to the production and handling of rice varieties A-201, A-301, Calmati 201, Akita Komachi, Calhikari 201, Calmochi 101, Calpearl, Hitomebore, Koshihikari, NFD 108, NFD 109, SP-2, Sasanishiki, Surpass, WRS-4431, Arborio, Calriso, and koganemochi.

### (a) Protocol:

1. The producer shall keep any verifiable attribute as evidence of the seed grown in the planted area; such as, but not limited to, the bill of sale indicating the seed variety, seed certification number, etc.
2. Seeding may be by air, ground seeding or broadcasting.
3. There shall be a buffer zone with a distance of at least twenty (20) feet between a field planted with rice specified in this section and a field planted with any type of rice not specified in this section. The producer shall keep the buffer zone clear of rice seedlings and rice plants by removing any such rice and avoiding irrigation of the area to prevent germination of the rice. Foundation or basic seed produced in accordance with industry seed production standards shall have a buffer zone of at least ten (10) feet from any other rice not specified in this section.
4. Producers shall clean all planting equipment after it is used to plant rice, or require that any person who plants rice for the producer clean the planting equipment. Cleaning may be by air, liquid or other means that removes all rice seed from the planting equipment.
5. Producers shall clean all harvesting and transportation equipment after it is used to harvest or transport rice, or require that any person who performs these activities clean the equipment. Cleaning may be by air, liquid or other means that removes all rice seed from the harvesting and transportation equipment.
6. The person in physical possession of rice specified in this section shall ensure that the container or conveyance truck holding the rice continually exhibit a tag or mark

that is clearly and immediately identifiable. The tag or mark shall specify lot number, variety, field number, and grower name.

7. Handlers and warehouse operators shall clean all conveyance and storage equipment to prevent mixing of rice. Cleaning may be by air, liquid or other means that removes all rice seed from the conveyance and storage equipment.
8. Rice varieties specified in this section may only be mixed for commercial purposes.
- (b) Any person who proposes to use a protocol more restrictive than subsection (a) shall submit the protocol to the Committee for verification. Any such proposal shall be submitted to the Committee by December 31 of the year preceding the growing season in which the rice will be produced or handled.
- (c) Compliance with protocols used by persons subject to this section may be audited and verified by the Commission. All protocol records shall be retained for two years and shall be submitted for inspection at a reasonable time upon written demand of the Commission or its duly authorized agent.

Authority: Section 55022, Food and Agricultural Code.

Reference: Sections 55040(b)-(c), and 55045(a)-(c), and 55047, Food and Agricultural Code.

**Adopt Section 2852 to read:**

Section 2852. Production and Handling of Colored Bran Rice

The following protocol specified in this section shall apply to the production and handling of rice varieties LBJ 489 "Black Japonica," LWE 218 "Wehani," HKB 102 "Hong Kong Black," Sun West "Rojito," and Sun West "Black Rice."

(a) Protocol:

(1) Planting

(A) The producer shall keep any verifiable attribute as evidence of the seed grown in the planted area; such as, but not limited to, the bill of sale indicating the seed variety, seed certification number, etc.

(B) Aerial application is prohibited.

(C) Producers shall plant by ground seeder only or require that any person who plants for the producer do so by ground seeder only.

(D) There shall be a buffer zone with a distance of at least twenty (20) feet between a field planted to rice specified in this section and a field planted with any type of rice not specified in this section. The producer shall keep the buffer zone clear of rice seedlings and rice plants by removing any such rice and avoiding irrigation of the area to prevent germination of the rice. Foundation or basic seed produced in accordance with industry seed production standards shall have a buffer zone of at least ten (10) feet from any other rice not specified in this section.

(E) Producers shall use a tarp or other material at least six mil thick to cover loads of rice seed to prevent dispersal, or require that any person who performs this activity for the producer prevent dispersal of the rice seed.

(F) Producers shall require that rice seed is delivered and loaded into the ground seeder at the field being planted.

(G) Producers shall clean all planting equipment after it is used to plant rice, or require that any person who plants rice for the producer clean the planting equipment. Cleaning may be by compressed air, liquid or other means that removes all rice seed from the planting equipment.

(H) Producers shall maintain written records known as "clean out logs" that specify the name of the person, time, date, and location that the clean out occurred on all planting equipment, or require that any person who cleans the planting equipment maintains clean out logs.

(2) Production

(A) Producers shall prevent dispersal of rice seed beyond the planted area.

(B) Producers shall inspect all buffer zones and eliminate rice seedlings and rice plants.

(C) Producers shall place screens on all drains during field flooding to prevent movement of rice seeds or rice seedlings. Screen mesh diameter shall be no larger than 1/8 inch.

(D) Fields planted with rice specified in this section shall not be planted with any other rice not subject to this section in the following year. Producers shall inspect such fields for rice volunteers for one year and all rice volunteers shall be removed and destroyed.

(3) Harvesting

(A) Producers shall prevent the dispersal of rice beyond the planted area when operating harvesting equipment, or require that any person who operates the harvesting equipment for the producer prevent the dispersal of rice beyond the planted area.

(B) Banking out of rice and loading of trailers shall be performed at the field being harvested or at designated areas. Designated areas mean uncultivated land adjacent to the planted area. The route from the field and the designated areas may be located in the buffer zone.

(C) Producers shall clean all harvesting equipment after it is used to harvest rice, or require that any person who harvests for the producer clean the equipment in the field or designated area. All material resulting from the cleaning must be collected and returned to the field where the crop was grown. Cleaning may be by compressed air, liquid or other means that removes all rice seed from the harvesting equipment.

(D) Producers shall maintain written records known as "clean out logs" that specify the name of the person, time, date, and location that the clean out occurred on all harvesting equipment, or require that any person who cleans the harvesting equipment maintains clean out logs.

(E) The owner or operator of equipment that has harvested rice specified in this section shall notify the owner or operator of the next rice field in which the equipment is used, that the equipment has harvested such rice.

(4) Transporting

(A) Producers shall use a tarp or other material at least six mil thick to cover loads of harvested rice to prevent dispersal, or require that any person who performs this activity for the producer prevent dispersal of the harvested rice.

(B) A harvest delivery receipt specifying the name of the producer, harvest location, rice variety, and weight shall accompany all rice loads to storage.

(C) The person in physical possession of rice specified in this section shall ensure that the container or conveyance truck holding the rice continually exhibit a tag or mark that is clearly and immediately identifiable. The tag or mark shall specify lot number, variety, field number, and grower name.

(D) Producers shall clean all transportation equipment after it is used to transport rice, or require that any person who transports for the producer clean the equipment. Cleaning may be by air, liquid or other means that removes all rice seed from the transportation equipment.

(E) Producers shall maintain written records known as "clean out logs" that specify the name of the person, time, date, and location that the clean out occurred on all transportation equipment, or require that any person who cleans the transportation equipment maintains clean out logs.

(F) Laboratories that receive samples of rice specified in this section shall not mix the rice for commercial purposes after it is used for testing or analysis.

(5) Drying and Storage

(A) Handlers and warehouse operators shall maintain physical separation of each rice variety received to prevent mixing of rice samples.

(B) Handlers and warehouse operators shall clean all conveyance and storage equipment to prevent mixing of rice. Cleaning may be by compressed air, liquid or other means that removes all rice seed from the conveyance and storage equipment.

(C) Handlers and warehouse operators shall maintain written records known as "clean out logs" that specify the name of the person, time, date, and location that the clean out occurred on all conveyance and storage equipment.

(D) Handlers and warehouse operators shall document product receipt and delivery. Documentation shall include harvest delivery receipt and weight certification matching the field and rice variety being harvested. Final sales records and all other documentation shall be available for audit.

(b) Compliance with the protocol used by persons subject to this section may be audited and verified by the Commission. All protocol records shall be retained for two years and shall be submitted for inspection at a reasonable time upon written demand of the Commission or its duly authorized agent.

Authority: Sections 55022, Food and Agricultural Code.

Reference: Sections, 55040(b)-(c), 55045(a)-(c), and 55047, Food and Agricultural Code.

### **ARTICLE 3. INFORMAL HEARING PROCEDURES**

#### **Adopt Section 2853 to read:**

##### Section 2853. Scope of Coverage

Any person, or his or her duly authorized representative (respondent), may contest a notice of alleged violation and request an informal hearing as specified in this article.

Authority: Sections 407, 55022, Food and Agricultural Code.

Reference: Sections 55045, and 71131, Food and Agricultural Code;  
Sections 11400.20, and 11445.20, Government Code.

#### **Adopt Section 2854 to read:**

##### Section 2854. Filing Deadlines and Procedures

- (a) The respondent may request an informal hearing in writing and file the request with the California Rice Commission (Commission).
- (b) The request for an informal hearing shall be received by the Commission within 30 days from the date of the notice of alleged violation.
- (c) The request for an informal hearing shall be received by the Commission within 72 hours from the date of the notice of alleged violation if the Commission states in the notice that it intends to take action to enjoin the movement of rice from a specified site.
- (d) Failure to file a timely request for an informal hearing constitutes a waiver of the respondent's right to contest the notice of alleged violation.

Authority cited: Section 407, and 55022, Food and Agricultural Code; and  
Section 11400.20, Government Code.

Reference: Sections 55040, 55045, and 71131, Food and Agricultural Code.

**Adopt Section 2855 to read:**

Section 2855. Informal Hearing Schedule and Notification

- (a) The Commission shall schedule an informal hearing to be held within 30 days from the receipt of the request for an informal hearing from the respondent.
- (b) The Commission shall schedule the informal hearing to be held within 72 hours from the receipt of the request for an informal hearing if the Commission states in the notice that it intends to take action to enjoin the movement of rice from a specified site.
- (c) Upon scheduling an informal hearing, the Commission shall provide notice of the informal hearing to the respondent, which shall contain the following information:
  - (1) Date, location, and time of the informal hearing;
  - (2) Commission telephone and facsimile numbers, and any other relevant contact information;
  - (3) Subject matter of the alleged violation; and.



- (4) Any other information or documentation relative to the alleged violation.

Authority: Sections 407, and 55022, Food and Agricultural Code; and  
Section 11400.20, Government Code.

Reference: Section 55045, and 71131, Food and Agriculture Code.

**Adopt Section 2856 to read:**

Section 2856. Conduct of Informal Hearing

- (a) Informal hearings shall be conducted as follows:

- (1) The Commission shall designate a person who will preside as the hearing officer.
- (2) The standard of proof to be applied by the hearing officer shall be the preponderance of the evidence. The burden of proof shall be on the respondent.
- (3) Informal hearings may be conducted in person or by telephone at the discretion of the hearing officer.
- (4) The decision of the hearing officer shall be in writing, with a statement of findings and the conclusion, and shall be issued within 14 days of the completion of the informal hearing.
- (5) The decision shall be served on the respondent either by personal service or by facsimile transmission upon issuance of decision.
- (6) The decision shall be effective immediately and shall be final unless appealed pursuant to Section 71131, Food and Agricultural Code.
- (7) The Commission shall provide a copy of the decision to any interested party upon written request.

Authority: Section 407, 55022, Food and Agricultural Code; and Section 11400.20, Government Code.

Reference: Section 71131, Food and Agricultural Code; 11425.50, and 11440.30, Government Code.

**Adopt Section 2857 to read:**

Section 2857. Injunctive Relief

Nothing in this article shall prevent the Commission from immediately seeking injunctive relief.

Authority: Sections 55022, Food and Agricultural Code.

Reference: Section 55107(b), 55045(c), and 55046, Food and Agricultural Code.